

Senate File 2321 - Introduced

SENATE FILE 2321
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO SF 2111)

A BILL FOR

1 An Act relating to the state military forces by establishing
2 response and reporting requirements for certain crimes and
3 for the handling of allegations of sexual abuse in the state
4 military forces.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **29B.90A Interference.**

2 Any person subject to this code shall be punished as
3 a court-martial may direct if the person does any of the
4 following:

5 1. Interferes with or reprises against any member of the
6 state military forces who intends to make or who has made a
7 report to civilian law enforcement of a crime listed in section
8 29B.116A, subsection 1 or 2, where the accused and the victim
9 are subject to this code at the time of the offense.

10 2. Fails to cooperate with or obstructs a civilian criminal
11 investigation based upon a report described in subsection 1.

12 Sec. 2. Section 29B.116, Code 2014, is amended to read as
13 follows:

14 **29B.116 General article.**

15 ~~Though~~ Subject to section 29B.116A, though not specifically
16 mentioned in this code, all disorders and neglects to the
17 prejudice of good order and discipline in the state military
18 forces, of which persons subject to this code may be guilty,
19 shall be taken cognizance of by a general, special, or summary
20 court-martial, according to the nature and degree of the
21 offense, and shall be punished at the discretion of that court.
22 ~~However, cognizance shall not be taken of, and jurisdiction~~
23 ~~shall not be extended to, the crimes of murder, manslaughter,~~
24 ~~sexual abuse, robbery, maiming, arson, extortion, assault,~~
25 ~~burglary, or housebreaking, jurisdiction of which is reserved~~
26 ~~to civil courts.~~

27 Sec. 3. NEW SECTION. **29B.116A Jurisdiction of offenses by**
28 **civilian courts and duty to report.**

29 1. a. Jurisdiction under this code shall not be extended
30 to the crimes of murder, manslaughter, sexual abuse, robbery,
31 arson, extortion, assault, or burglary, jurisdiction of which
32 is reserved exclusively to civilian courts.

33 b. Courts-martial have primary jurisdiction of military
34 offenses as defined in sections 29B.77 through 29B.116 of this
35 code.

1 *c.* Civilian criminal courts have primary jurisdiction over
2 civilian criminal offenses, even where committed by a member of
3 the state military forces while subject to this code.

4 *d.* Where a civilian offense and a military offense may
5 be charged based on the same event, concurrent military and
6 civilian jurisdiction shall exist.

7 2. *a.* (1) Any unit or organization commander, or if a
8 commander is not on site an officer in charge, who is made
9 aware of an allegation that an offense under subsection 1,
10 paragraph "a" or "c" has been committed by a member of the state
11 military forces against another member of the state military
12 forces, while both are subject to this code, shall notify
13 civilian law enforcement authorities without delay.

14 (2) In the case of an allegation of sexual abuse:

15 (a) The commander's or officer's obligation to notify shall
16 apply to an allegation that is an unrestricted report as that
17 term is defined in federal military regulations and where the
18 person making the allegation consents to the notification to
19 civilian law enforcement.

20 (b) The commander's or officer's obligation to notify shall
21 apply to an allegation that is a restricted report as that term
22 is defined in federal military regulations and where the person
23 making the allegation consents to the notification to local
24 civilian law enforcement.

25 (c) Victims of sexual abuse who have filed restricted
26 reports under federal military regulations retain the right to
27 notify civilian law enforcement authorities independently.

28 (d) A commander or officer shall not interfere with the
29 decision of a person making an allegation of sexual abuse on
30 whether to notify civilian law enforcement.

31 *b.* Any unit or organization commander who is made aware of
32 an allegation that an offense under subsection 1, paragraph "d",
33 has been committed by a member of the state military forces
34 against another member of the state military forces, while both
35 are subject to this code, may notify civilian law enforcement

1 authorities without delay if the state military forces do not
2 intend to exercise jurisdiction.

3 3. The adjutant general shall report annually, by January
4 15, to the governor and to the chairpersons and ranking members
5 of the general assembly's standing committees on veterans
6 affairs on the number of offenses reported to civilian law
7 enforcement authorities in the prior year by type of offense.
8 The report shall detail the number of filed restricted
9 reports and detail the number of filed unrestricted reports as
10 described in subsection 2, paragraph "a".

11 Sec. 4. Section 803.1, subsection 1, Code 2014, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. f. The offense is committed by a member of
14 the state military forces against another member of the state
15 military forces, both are in a duty status at the time of the
16 offense, whether inside or outside the state, and the offense
17 is one for which civil courts have jurisdiction under section
18 29B.116A. However, for those offenses subject to both civilian
19 and military jurisdiction, civilian jurisdiction shall not
20 be declined solely on the basis that concurrent military and
21 civilian jurisdiction exists.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill establishes certain response and reporting
26 requirements for certain crimes and for the handling of
27 allegations of sexual abuse in the state military forces.

28 The bill creates an offense of interference under the Iowa
29 code of military justice and provides that military persons
30 who commit such offenses shall be punished as directed by
31 a court-martial. The bill provides that a military person
32 commits such an offense if the person interferes with or
33 reprises against any member of the state military forces who
34 intends to make or who has made a report to civilian law
35 enforcement of certain crimes, where the accused and the victim

1 are subject to the Iowa code of military justice at the time
2 of the offense. The bill provides that a military person also
3 commits such an offense if the person fails to cooperate with
4 or obstructs a civilian criminal investigation based upon such
5 a report.

6 The bill moves Code language that reserves civilian
7 jurisdiction over the crimes of murder, manslaughter, sexual
8 abuse, robbery, arson, extortion, assault, and burglary
9 from current Code section 29B.116 to new Code section
10 29B.116A. However, the bill removes the crimes of maiming and
11 housebreaking from the list of crimes reserved for civilian
12 jurisdiction, as no such-named crimes exists under the Iowa
13 Code.

14 The bill provides that courts-martial shall have primary
15 jurisdiction of military offenses as defined in Code sections
16 29B.77 through 29B.116. The bill further provides that
17 civilian criminal courts have primary jurisdiction over
18 civilian criminal offenses, even where committed by a member
19 of the state military forces while subject to the Iowa code
20 of military justice. The bill also establishes that where a
21 civilian offense and a military offense may be charged based on
22 the same event, concurrent military and civilian jurisdiction
23 shall exist.

24 The bill requires that any unit or organization commander,
25 who is made aware of an allegation that an offense under
26 civilian jurisdiction has been committed under certain
27 circumstances, shall notify civilian law enforcement
28 authorities without delay. The bill requires that an officer
29 in charge provide such notification if a commander is not on
30 site.

31 The bill requires that in the case of an allegation of sexual
32 abuse that the commander's or officer's obligation to notify
33 shall apply to an allegation that is an unrestricted report or
34 a restricted report and where the person making the allegation
35 consents to the notification of civilian law enforcement. The

1 bill provides that victims of sexual abuse who have filed
2 restricted reports under federal military regulations retain
3 the right to notify civilian law enforcement authorities
4 independently and that a commander or officer shall not
5 interfere with the decision of a person making an allegation of
6 sexual abuse on whether to notify civilian law enforcement.

7 The bill also provides that any unit or organization
8 commander who is made aware of an allegation that an offense
9 has been committed under military and civilian jurisdiction
10 may notify civilian law enforcement authorities without
11 delay if the state military forces do not intend to exercise
12 jurisdiction.

13 The bill requires that the adjutant general report annually,
14 by January 15, to the governor and to the chairpersons and
15 ranking members of the general assembly's standing committees
16 on veterans affairs, on the number of offenses reported to
17 civilian law enforcement authorities in the prior year by type
18 of offense. The bill further requires that the report detail
19 the number of filed restricted reports and detail the number
20 of filed unrestricted reports.

21 The bill also extends state criminal jurisdiction to
22 offenses committed within or outside of Iowa if the offense
23 is committed by a member of the state military forces against
24 another member of the state military forces, if both are in
25 a duty status at the time of the offense, and if the offense
26 is one for which civilian courts have jurisdiction under new
27 Code section 29B.116A. The bill also provides that for those
28 offenses subject to both civilian and military jurisdiction,
29 civilian jurisdiction shall not be declined solely on the basis
30 of concurrent military and civilian jurisdiction.